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D.B. CIVIL SPECIAL APPEAL NO.79/2007
[MUNICIPAL CORPORATION JODHPUR VS. MOHAN LAL &
ORS.]

DATED : 09.03.2007

HON'BLE MR. RAJESH BALIA, J.
HON'BLE MR. CHATRA RAM JAT, J.

Mr.R.S.Saluja for the appellant

Heard learned counsel for the appellant.

The appeal is directed against the judgment passed by learned Single Judge dated 20.11.2006 excluding the candidature of the respondent. The respondent was excluded from consideration for the post of safai wala under the appellant Municipality solely on the ground that under executive instructions of the Government where any member of the family was already serving under the Municipality or any other service shall not be considered for the post of safai wala.

The learned Single Judge has allowed the writ petition relying on the decision of the Hon'ble Supreme Court in case of Baliram Prasad Vs. Union of India & Ors. reported in AIR 1997 SC 637. The denial of opportunity to seek appointment under the State or any instrumentality of the State on the ground that any member of the family or relative is already under service amounts to forfeit the fundamental rights under Article

14 and 16 of the Constitution of India which grants right of equality before law and equality in the matter of opportunities for any service under the State.

Apparently, the right to seek employment is individual right and is not depended on any other member of the family or relative being in employment. There is no nexus with the object sought to be achieved by excluding the members of the family of the already employed person or relative of employed person from seeking job opportunities as an individual. It cuts across his fundamental right to seek his individual existence by dint of his own talent and qualification and affects his right to live with dignity, by depriving him reach to job opportunities on wholly irrational ground.

In view of the aforesaid clear position emerging from the judgment of the Hon'ble Supreme Court in Bali ram's case the provisions of the Constitution we do not find any error in the judgment under appeal.

The appeal is accordingly dismissed in limine.

[CHATRA RAM JAT]J.

[RAJESH BALIA], J.